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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/082,935	10/22/2001	Dieter Hoi	AT000062	4069

24737 7590 12/15/2006

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
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EXAMINER	
AUGUSTIN, EVENS J	

ART UNIT	PAPER NUMBER
3621	

DATE MAILED: 12/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/082,935	HOI ET AL.	
	Examiner	Art Unit	
	Evens Augustin	3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *28 September 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-13* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-13* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Response to Amendment

This is in response to an amendment file on 09/28/2006 for letter for patent filed on 10/22/2001. Claims 1-13 are pending in the letter.

Response to Arguments

1. The United States Patent and Trademark Office (USPTO) has fully considered the applicant's arguments filed on 09/28/2006, but has not found those arguments to be persuasive.

Argument 1: Prior art failed to teach the aspect of determining one of a number of words in the dictation and a number of edition operations during a transcription of the dictation.

Response 1: Even though Cilurzo et al. describes the aspects of the speech recognition algorithm applying a trigram statistical model, which will determine the proper context of three words appearing in sequence **(counting the occurrence of words)** and then after selecting the possible words, perform a further detailed analysis of the remaining likely candidates be able to be accommodated at any given time, Cilurzo did not explicitly teach describe word count. However, word count is very well known in the art. To illustrate that fact, the prior art by Mishelevich et al., certain parameters are displayed such as the **current word count**, the elapsed time, and the current average words per minute (column 15, lines 45-46). According to Mishelevich et al, data is entered by means of voice input in which speech-recognition software converts the sound input into text format (column 5, lines 65-67). Therefore, the relevancy of the two inventions by Cilurzo et al. and Mishelevich et al. is very evident.

The invention by Mishelevich et al. teaches the aspect of monitoring which contextual dictionaries or lexicons were used, and revising words that were previously entered into sections based on the inconsistent lexicons (column 12, lines 55-66). The invention also monitors user's **input rate** (counting of data input, including edition operations) and rhythm (column 11, lines 1-2).

Part of the patent examining process is for claims to be interpreted as broadly as their terms reasonably allow. The reason is simply that during patent prosecution when claims can be amended, ambiguities should be recognized, scope and breadth of language explored, and clarification imposed. In re Zletz, 893 F.2d 319, 321-22, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989), unless applicant provide convincing evidence as to why the USPTO's interpretation is not warranted or is out of line.

Status of Claims

2. Claims 1-15 have been examined.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cilurzo et al. (U.S 6434526), in view of Mishelevich et al. (U.S 6434547).

During patent examination the pending claims must be interpreted as broadly as their terms reasonably allow. The reason is simply that during patent prosecution when claims can be amended, ambiguities should be recognized, scope and breadth of language explored, and clarification imposed. In re Zletz, 893 F.2d 319, 321-22, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989)

The office interprets the invention as licensing for software application in which the owner/distributor of the software gets compensated for on a pay per usage basis. In other words, whenever the software product gets used, licensing requirement gets reconciled and payment is made for the usage of the software. In this application, the software product happens to be voice/speech recognition software that translates voice/speech into text.

As per claims 1-13, Cilurzo et al. disclose an invention that relates to communication networks and more particularly to the provision of a speech recognition capacity to special application program services provided on a network. The invention includes:

- Providing on a network software with speech recognition capability (column 2, lines 49-51)
- A server receiving voice input from the user - the server processes the voice input and transmits back text transcription of the voice input (column 2, lines 22-37)

- The fee determination for the software being used to transcribe voice-to-text process can be a monthly rental fee, or a service price for the use of the software (column 2, lines 38-40)
- Speech data in inputted into a service server that does processing and transmitting the text output back to the user (column 4, lines 1-56)
- Determining a number of words in dictation (column 4, lines 42-48)
- The system also uses programs with word processing capabilities such as word processor and Lotus Notes (column 5, lines 17-20). Word processors inherently contains editing functions or operations

Although Cilurzo et al. teach an invention in which the a translation of the dictation is transmitted back to the user's location and appears in text on the user's computer screen for examination and if necessary, voice or typed correction of its contents (column 2, lines 32-34), Cilurzo et al. did not teach a system which determines the number of words being transcribed or the number of correction made. However, Mishelevich et al. describe an invention in which a user enters data orally into a computer system, and transcribed using speech-recognition software. According to Mishelevich et al., data being entered is quantified as points (column 3, lines 1-3, 30-67). Therefore, it would have been obvious for one skilled to provide voice-to-text software/service that includes word count because, according to Mishelevich et al., such feature would facilitate the billing service of the system (column 3, lines 9-10).

5. Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cilurzo et al. (U.S 6434526), in view of Mishelevich et al. (U.S 6434547) and in further view of Frison et al. (U.S 6434547).

As per Claims 1-13, the inventions of Cilurzo et al. and Mishelevich et al. have previously been disclosed.

Cilurzo et al. and Mishelevich et al. did not explicitly teach a speech-to-text system in which the software or the service is being rendered on Pay-Per-Use basis. However, Fison et al. describe an invention in which

a user enters data orally into a computer system, and transcribed using speech-recognition software. According to Mishelevich et al., data being entered is quantified as points (column 3, lines 1-3, 30-67). Therefore, it would have been obvious for one skilled to provide voice-to-text software/service that includes word count because, according to Mishelevich et al., such feature would facilitate the billing service of the system (column 3, lines 9-10).

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Evens Augustin whose telephone number is 571-272-6860. The examiner can normally be reached on 10am - 6pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Fischer can be reached on (571)272-6779.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is 571-272-6584.

Evens J. Augustin
December 10, 2006
Art Unit 3621

KAMBIZ ABDI
PRIMARY EXAMINER